



PATENT
Customer No. 22,852
Attorney Docket No. 6530.0253-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Richard MONTALVO et al.

Serial No.: 09/988,125

Filed: November 19, 2001

For: ENDOSCOPIC SURGICAL
INSTRUMENT

)
)
) Group Art Unit: 3731

) Examiner: D. Davis

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In the Office Action of September 23, 2003, the Examiner required election under 35 U.S.C. § 121 of one of the following alleged species of surgical instruments:

Species 1 - directed to the embodiment of Figure 1;

Species 2 - directed to the embodiment of Figure 6; and

Species 3 - directed to the embodiment of Figure 8.

In addition, the Examiner required election of one of the following alleged species of tubular members:

Species A - directed to a single lumen tubular member; and

Species B - directed to double lumen tubular members.

Applicants provisionally elect to prosecute alleged Species 1 - directed to the embodiment of Figure 1 and alleged Species A - directed to a single lumen tubular

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

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J. Buyer
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member, with traverse. At least claims 1, 2, 4-6, 12, and 14-16 should read on the elected subject matter.

In the Office Action, the Examiner also indicated that claims 1 and 13 are generic. Applicants understand that upon the allowance of a generic claim, any nonelected claims that depend from or otherwise contain all of the limitations of such a generic claim will be rejoined and also allowed.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 23, 2003

By:


Naoki Yoshida

Reg. No. 48,108

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com